

# Newton

New Hampshire

## Policies and Procedures Manual

2019

Adopted January 22, 2008

Amended August 11, 2009 – Schedule of Fees

Amended May 24, 2011 – Schedule of Fees

Amended May 22, 2012 – Roadway Acceptance Procedure

Amended October 23, 2012 – Conditional Use Permit Procedure,

Minor Application Review Procedure, Schedule of Fees

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## **PROCEDURE**

### **1. Submission**

Applications for subdivision and site plan approval shall be filed with the Planning Board and shall fulfill the applicable requirements of the Subdivision and Site Review regulations. An application shall be on forms available from the Planning Board office. All subdivision and site plans may be reviewed by the Chairman and/or his/her designee who shall determine their compliance with these regulations and any other applicable regulations. Subsequent to this review the Chairman or designee may recommend either acceptance or request further information from the applicant.

A completed application shall be submitted to, and accepted by the Board only at a public hearing for which notice has given to the applicant, abutters, and the general public in accordance with RSA 676:4, I(d) and Town Regulations. Only completed applications will be placed on the Board's agenda for formal review and acceptance.

Submission requirements:

#### **A. Preliminary Conceptual Consultation Phase (Amended October 2012)**

A preliminary conceptual consultation on applications prior to submittal shall not bind either the applicant or the Planning Board. The preliminary conceptual consultation may include, but is not limited to, discussions of the proposal in general terms to include the desirability of the development and the development's relationship to the Master Plan. Preliminary conceptual consultation may occur without the necessity of giving formal public notice as required by RSA 676:4 I (d), but must occur only at formal public meetings of the Planning Board. Review beyond such conceptual and general discussion may proceed only after identification of, and notice to, abutters and the general public as required by Section 8 of this Policies and Procedures Manual. In a preliminary conceptual consultation, the applicant may present a rough sketch or other information useful in defining the general scope and concept of the site plan including how the land will be developed and subdivided, if applicable. The Planning Board may make suggestions to assist the applicant in preparing the formal application and in resolving problems foreseen with meeting subdivision requirements or other applicable regulations of the Town.

- i. The Town of Newton requires preliminary conceptual consultation prior to application, in accordance with RSA 674:35, Section 1 for all subdivision applications.

#### **B. Design Review Phase**

The optional design review phase on applications is beyond a preliminary conceptual consultation and involves more specific design and engineering details. Such review shall not bind either the applicant or the Planning Board. The design review phase may proceed only after notice to abutters and the general public as provided for in the regulations. If the applicant wishes to proceed beyond the design review phase, a public hearing for the final site plan review must be held.

#### **C. Application for Subdivision / Site Plan Review**

- i. A completed application sufficient to invoke jurisdiction of the Board shall be filed with the Board's designee or the Town Office at least 28 days prior to the public meeting of the Board at which it is to be submitted.
- ii. Applications shall be disapproved by the Board without public hearing on the grounds of failure of the applicant to supply information or to pay fees as required by these regulations.

- iii. Fees for Planning Board Review. All fees will be due before any application will be placed upon an agenda. Certain fees may be subject to change based upon cost increases incurred by the Board. Fee amounts are assessed in accordance with the Schedule of Fees attached hereto as an appendix and incorporated by reference herein. The Schedule of Fees shall be adopted in accordance with the procedures required by state law for subdivision regulation adoption. The Schedule of Fees is available at Town Hall and from the Planning Board. These fees are assessed by authority of RSA 676:4, I (g), as amended.
- iv. It shall be the responsibility of the applicant to supply the names and addresses of all the abutters upon filing the subdivision application with the Board. Per RSA 676:4, I(d), as amended, notification shall also be given to the applicant and all professionals, including every engineer, architect, land surveyor, or soil scientist, whose seals are affixed to the plan, as well as any holder of a conservation easement on the subject parcel. The Board will conduct no review of submitted names for determination of complete abutter notification. Furthermore, the Board takes no responsibility or liability for improperly noticed hearings resulting from applicant-generated abutter lists.

2. Additional Town Review

The Board may send applications and copies of such plans to the Conservation Commission, building inspector, health officer, road agent, fire department, police department and any other department or Board for review and comments. Copies shall be available at the Selectmen's office and Town Clerk's office for public review.

3. Board Action

- A. Upon delivery of an application, in accordance with these procedures, the Board shall have thirty (30) days to determine if the submitted application is complete, according to the Board's regulations, and shall vote upon its acceptance. Formal consideration may begin on the same night as the completed application is accepted by the Board provided that notice of public hearing has been given.
- B. Within sixty-five (65) days after a completed subdivision application has been accepted for jurisdiction, the Board shall approve, approve with conditions, or disapprove said application. In cases where a subdivision review application has been disapproved, the grounds for such disapproval shall be clearly stated in the minutes of the Board's meeting and notice provided to the applicant.
  - i. The receipt date in the above section shall be the last date upon which information necessary to determine completeness was received by the Board. It shall not be the date upon which the information was first filed or any date in between. The Board shall not find an application complete without all required information.
  - ii. Any application not found to be complete shall be determined to be incomplete and a denial shall be provided in accordance with RSA 676:3, however, the Board, at its discretion, may continue the hearing for determination of completeness to receive further information. Upon completeness being determined, the receipt date shall be determined in accordance with Section 1.3, B(1) of the Policies and Procedures Manual.

4. Extensions

The Planning Board may apply to the Board of Selectmen for an extension not to exceed an additional ninety (90) days before acting to approve, approve with conditions, or disapprove an accepted subdivision or non-residential site plan review application. An applicant may waive the requirement for Board action within the specified time periods and consent in writing to such extensions as may be mutually agreeable

to both the Board and the applicant; in such an event, no application to the Board of Selectmen is required.

5. Failure to Act

Upon failure of the Board to approve, conditionally approve, or disapprove the application, the Board of Selectmen shall, upon request of the applicant, immediately issue an order directing the Planning Board to act on the application within thirty (30) days per RSA 676:4, I(c)(1). If the Board does not act on the application within the thirty (30) day time period, then within forty (40) days of the issuance of the order, the Selectmen shall certify on the applicant's subdivision or non-residential site plan review application that the plat is approved, unless within those forty (40) days the Selectmen have identified in writing a specific provision of the Site Plan Review Regulations, Subdivision Regulations, Zoning Ordinance, or other applicable regulation or by-law with which the application does not comply. Such certification by the Selectmen of the foregoing shall constitute final approval under RSA 674:37 and 676:18, and court review under RSA 677:15.

6. Conditional Approval

A. The Board may grant conditional approval of a subdivision or site plan review application, but the plan will not be signed or recorded until all of the conditions have been met. Conditions of this nature must be fulfilled before the Planning Board may give final approval to an application. Approval will become final without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Conditional Approval without further public hearing will only be granted when the conditions are:

- i. Minor changes whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative in nature and which does not involve discretionary judgment; or
- ii. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board, such as, payment of additional fees, minor textual corrections to submitted documents, submission of additional copies of submitted documents, or other similar items; or
- iii. Involve the applicant's possession of permits and approvals granted by other Boards or governmental agencies, provided that the permits and approvals themselves have not required a change to the submitted plat or any other conditions imposed by the Board.

B. Unless otherwise specified within the approval, the applicant shall have six months to comply with the conditions of the approval and have the plan signed by the Board. If the conditions are not met within six months, the conditional approval shall lapse, unless a mutually agreeable extension has been granted by the Board. Extensions may be granted only if there have been no amendments to the Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations, or any other ordinances and regulations which would render the subdivision plan non-conforming, and if all other required permits are still valid.

C. Conditions shall be identified as either Precedent or Subsequent Conditions.

- i. Precedent Conditions are conditions of approval that are required to be met prior to the signing and recording of plans.
- ii. Subsequent Conditions are conditions of approval that are required to be met prior to the issuance of any building permits, or other milestone identified within the condition.

7. Final Approval

Upon determination that the requirements of these and any other town regulations or ordinances have been met, the Board may approve the application. Where any of these regulations have not been met or are not applicable, the Board may grant a waiver in accordance with the procedures in Section X, Waivers of the Subdivision or Site Plan Regulations.

The Board shall have the authority to grant approval subject to conditions that are subsequent. Such conditions may be necessary to secure the intent and purpose of these regulations or help to mitigate the impacts presented by the development itself. These are conditions that may appear on the plat and deal with restrictions on the use of property or safeguards that must be observed during development of the parcel or once the project is completed. Such issues might include the location of a road, preservation of vegetation and stone walls, or hours of operation and construction.

8. Public Hearing and Notice

When acting on a completed subdivision or site plan review application, the Board shall hold a public hearing to discuss the application. Per RSA 676:4, I(e), a public hearing shall not be required when the Board disapproves an application based upon an applicant's failure to supply information required by these regulations, including abutter's identification, failure to meet reasonable deadlines established by the Board, or failure to pay costs of notice or other fees required by the Board.

The abutters, owner, applicant, easement holders, and design professionals shall be notified of the hearing by certified mail with return receipt requested not less than ten (10) days before the scheduled public hearing date, in accordance with RSA 676:4, I(d) and the Town of Newton Subdivision/Site Review regulations. The Hearing Notice shall be drafted by the Town for the applicant to mail. Postage Return Receipts shall be addressed to the Town of Newton Planning Board. Postage costs for abutter notification shall be borne by the applicant.

Notice to the general public will be given at the same time by advertisement in a newspaper of general circulation in the Town of Newton, and shall be posted in at least two (2) public places. Costs for legal advertising and posting shall be paid in advance by the applicant (RSA 676:4, I(d)) and will be deducted from the application escrow account.

9. Procedure for Conditional Use Permit (Amended October 2012)

The Board hereby adopts the following procedures for review and approval of Conditional Use Permits. These provisions are enacted to permit the expedited and cost-effective review of Conditional Use Permits. Conditional Use Permit applications may be submitted, reviewed, and approved at one or more Board hearings subject to the following conditions:

- A. Submission and notice: An application for Conditional Use Permit approval shall be submitted in the same manner as prescribed in Section 1 of the Policies and Procedures Manual, including fees. Notice of Conditional Use Permit review requests shall be given in the same manner as prescribed in Section 8 of the Policies and Procedures Manual.
- B. Public Hearing: A public hearing, with notice as provided in Section 8 of the Policies and Procedures Manual, shall be held for the Board to render a final decision on the Conditional Use Permit.
- C. Decision of the Board: With the exception of the expedited review procedures intended herein, the Board shall follow the same decision making principles specified for standard site plan review applications.

- D. Required exhibits and fees (Amended October 2012): The Planning Board shall determine whether Conditional Use Permit plans are required to be prepared by a professional engineer or licensed land surveyor. Home Based Business and Accessory Apartment applications shall follow procedures for minor site plan review. All other applications for a Conditional Use Permit shall follow procedures for site plan review, unless granted a waiver by the Planning Board. Fees shall be paid in accordance with the fee schedule. In addition to the information required by the procedures for minor application or site plan review, the following items shall be depicted on the Conditional Use Permit application plan:
- (i) The name and address of the property owner.
  - (ii) Location of the site (vicinity sketch), street, address, zoning district, and Tax Map/Lot number.
  - (iii) Description of the existing and proposed uses, including, but not limited to, approximate size, height, and placement of structures, parking and loading areas, driveways, water, sewer, drainage, and utility lines, paved areas, exterior signs, exterior lighting, and landscaping.
  - (iv) Calculations of allocation of space for primary and accessory uses.
  - (v) Accurately depicted distances, setbacks, and other required information necessary for Board review.
  - (vi) Additional information as stipulated in the Newton Zoning Ordinance, as applicable.

10. Procedure for Minor Application Review

- A. Per RSA 674:43 and RSA 674:44, the Board hereby adopts the following procedures for minor subdivision and minor site plan review. Projects which fall under minor application review authority include, but are not limited to, the items listed below. Only one item need apply to have the project fall under minor application review authority. These provisions are enacted to permit the expedited and cost-effective review of minimal impact developments within Newton.
- i. Structural additions of less than ten percent (10%) of existing floor space, up to a maximum addition of 2000 square feet.
  - ii. Parking lots or expansions thereto, including the paving of existing parking areas and driveways.
  - iii. Projects where the amount of disturbed land totals 2,000 square feet or less. Disturbed land includes, but is not limited to, parking, driveway, septic and leach field, except the emergency repair or replacement of septic and leach field approved by the health officer, drainage pipes, drainage ditches, building footprint, etc.
  - iv. Change of use without proposed new roadways, drainage, or off-site improvements.
  - v. Amended site plans.
  - vi. Lot Line Adjustment, with the creation of no new lots.
  - vii. Home Based Business Conditional Use Permit.
  - viii. Accessory Apartment Conditional Use Permit.

- B. No more than one Minor Application Review is permissible per lot or parcel every three years. Any development following a Minor Site Plan Review shall not automatically be considered Minor. Due to the circumstances associated with a particular project, the Planning Board may determine additional development after a minor application review requires additional exhibits, information, and fees associated with the site plan regulations. However, development subsequent to standard Site Plan Review may be considered Minor if consistent with all the requirements of this sub-section. (Amended October 2012)
- C. If the Board determines that the impact of the proposed project presents greater than minimum impact, the application shall not be eligible for Minor site plan review. Impacts that shall be considered include, but are not limited to, health, safety, and general welfare of the surrounding neighborhood and region, and impacts to the environment, and natural resources.
- D. Minor site plan review applications may be submitted, reviewed and approved at one or more Board hearings subject to the following conditions:
  - i. Submission and notice: An application and notice for minor site plan approval shall be submitted in the same manner prescribed in these procedures (including fees).
  - ii. Public hearing: A public hearing, with notice, shall be held for the Board to render a final decision on the minor site plan review application.
  - iii. Decision of the Board: With the exception of the expedited review procedures outlined above, the Board shall follow the same decision making principles specified for standard site plan review applications.
  - iv. Required exhibits and fees (Amended October 2012): Minor site plans are not required to be prepared by a professional engineer or licensed surveyor, but must accurately depict distances, setbacks, and other required information necessary for Board review. However, due to the circumstances associated with a particular project, the Planning Board may require additional exhibits, information, and fees associated with the site plan regulations. Plans that are required to be recorded at the Rockingham County Registry must be prepared by a licensed professional. Fees shall be paid in accordance with the fee schedule. The following items shall be shown on the minor site plan unless a waiver(s) is requested:
    - (a) The name and addresses of the property owner, authorized agent, the person or firm preparing the plan, and the person or firm preparing any other data to be included in the plan.
    - (b) Scale, north arrow, and the date prepared.
    - (c) Location of the site (vicinity sketch), street, address, zoning district location, and applicable tax map information.
    - (d) Description of the existing site and proposed changes thereto, including, but not limited to: approximate size (including height) and placement of new buildings and accessory structures, new parking and loading areas, new signage, new lighting, new landscaping (in accordance with Section 7.2.9, G of the Site-Plan Regulations), and the amount of land to be disturbed.
    - (e) Location of existing and proposed easements, (if any). Copies of such easement language must be submitted to the Board.
    - (f) Use of abutting properties and special features (both natural and man-made) within 100 feet of site.



- (g) Location of existing and/or proposed water supply, sewage disposal facilities, gas and/or electric lines, paved areas, structures, (both primary and accessory), driveways, parking areas, and drainage facilities.
- (h) A completion schedule of all proposed improvements.

11. Developments of Regional Impact

In accordance with RSA 36:54-58, the Board shall review all subdivision plans to determine if they have regional impact and shall follow the notification procedures required in RSA 36:57.

12. Recording Procedures

The Board shall require subdivision, lot line adjustment plans, and site plans to be recorded with the Rockingham County Registry of Deeds, once said plan is approved or approved with conditions. Per RSA 676:4, I(g), the cost of said filing is considered an administrative expense, and shall be borne by the applicant. The filing fee must be paid prior to recording. The Board, at its discretion, may require minor site plans to be recorded.

Plans will not be recorded until the receipt of payment for all administrative, engineering review, legal review, public notification, and recording fees.

13. Active and Substantial Development

In accordance with RSA 674:39, every Subdivision Plan will include a statement defining what will constitute, "active and substantial development or building" for purposes of fulfilling the requirements of RSA 674:39, I. The Board, at its discretion, shall require site plans to include a statement defining what will constitute, "active and substantial development or building" for purposes of fulfilling the requirements of RSA 674:39, I. This threshold for "active and substantial development or building" must be reached within 12 months of approval before the plan will be eligible for the five-year exemption, as provided in 674:39 and as amended, from subsequent changes in the Town of Newton Zoning Ordinance, Subdivision Regulations, or Site Plan Review regulations. The Board may extend this period for up to 12 months only for good cause.

14. Expiration of Approved Plans

Where no active and substantial work has commenced upon a site, plans that are approved and signed by the Board shall expire two years from the date the plan is signed. All previously approved plans shall expire two years from the effective date of this regulation. An extension, not to exceed one year, may be granted by majority vote of the Board so long as it is applied for at least thirty days prior to the expiration date. All other plans must be submitted to the Board for review to ensure compliance with these and all other town ordinances and regulations.

15. Roadway Acceptance Procedure (Adopted September 2008, amended May 2012)

Upon completion of a roadway in accordance with Appendix B of the Newton Subdivision Regulations, the developer may petition the Planning Board and Board of Selectmen for acceptance of the road as a Town road.

The road must receive final inspection from the Town Engineer within thirty (30) days after an application for acceptance as a town-maintained road has been submitted (or at a time mutually agreed upon by the Planning Board and the applicant). If all items have been addressed, the Town Engineer will provide a letter stating that the road has been completed according to the recorded plans and recommend the road for acceptance.

- A. Provide three (3) copies of an as-built plan of the roadway that has been approved by the Town.

- B. Provide a copy of the road deed in fee simple form conveying ownership of the road to the Town of Newton. The deed must be reviewed and approved by Town Counsel.
- C. Provide a copy of any easements or additional deeds as required. Easements and additional deeds must be reviewed and approved by Town Counsel.
- D. The road will receive a final inspection from the Town Road Agent. If all items have been addressed to the Road Agent's satisfaction, the Road Agent will provide a letter recommending the road for acceptance.
- E. Provide a maintenance guarantee covering the maintenance of public roads and other public improvements for a period of two (2) years from the date of acceptance as a town-maintained road in an amount no less than 10% and no more than 20% of the improvement costs.
- F. Pay all outstanding invoices – including costs for review of deeds, recording fees and final engineering review fees.
- G. Once all documentation is received, the Planning Board will review and vote whether or not to recommend that the Board of Selectmen accept the road.
- H. The Planning Board provides a written recommendation to the Board of Selectmen.
- I. The Board of Selectmen votes whether or not to accept the road as a Town road.
- J. Once the road has been accepted, all deeds and easements will be recorded at the Rockingham County Registry of Deeds, costs to be paid by the developer.

**SCHEDULE OF FEES** (Amended August 2009, amended May 2011, amended October 2012,)

- A. General.
  - 1. Once the application has been scheduled for a public hearing, all application fees are non-refundable.
  - 2. Applications shall be disapproved by the Board without Public Hearing on the grounds of failure of the applicant to supply information or to pay fees as required by these regulations.
- B. Application Fee.
  - 1. This application fee schedule represents an increasing scale in price, as related to the size of the project. Due to the complexity of larger projects, the length of review necessary, utilization of town facilities for administrative expenses related to review, storage and mailing and other requirements including but not limited to, copying, responding to informational requests, etc. and time and mailings, and other expenses to facilitate professional review required as part of the application, fees escalate with the size of the project exponentially as the above expenses escalate in proportion to the scope of the project. Due to the time required and amount of information that must be reproduced and mailed to adequately review larger projects, Board expenses for larger projects have historically accelerated exponentially. This payment scheme will protect undue expenditure of municipal funds as part of the application process. Fees may be waived in accordance with Section X, Waivers of the Subdivision or Site Plan Regulations.

2. Checks for the Application fee only should be made out to: **Town of Newton, Newton Planning Board.**

C. Escrow Account.

1. As authorized under RSA 676:4, I(g), an initial engineering and professional review account deposit is required. This account will be used to cover required professional and engineering fees, to review erosion and drainage plans, soils information, and any other review required by the Board. This account shall also be used to reimburse the expenses incurred for technical review of plans at the rate which reflects the current rate charged to the Town for this service. This account shall also be used to reimburse the expenses incurred for legal review of applications by the Town Attorney at the rate which reflects the current rate charged to the Town for this service. Moneys shall only be deducted from this amount in accordance with submitted expense accounting. Any unused portion of this fee shall be returned to the applicant, along with the bills accounting for any expenses deducted.
2. Fee for legal advertising to be payable at current cost, to be deducted from the Escrow account.
3. Recording fee. Recording fee payable upon submittal of Mylar to the Board for recording with the Rockingham County Registry of Deeds at the rate which reflects the current rate charged to the Town for this service, to be deducted from the escrow account.
4. Checks for the Escrow Account deposit should be made out to: **NPREA**
5. Initial deposit to accompany applications. Total fees shall be determined by the Planning Board and the Town Engineer. The escrow account shall be replenished by the applicant, at the direction of the Board, if the initial escrow is not sufficient for the completion of reviews.

D. Fees and Escrow Deposits shall be reviewed and set annually by the Planning Board. The **FEE SCHEDULE** shall be found in Appendix 1 as page 1. (Amended January 2021)